

ARTICLE IV. TOBACCO*

Sec. 14.35. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them in this section:

Dealer: Any wholesale or retail dealer as herein defined.

Package: The individual box or other container from which or in which retail sales of the tobacco products mentioned herein are normally made or intended to be made.

Person: A natural person, firm, corporation, club, association, joint stock company, receiver, estate, trustee or any other person acting in a fiduciary capacity.

Retail dealers: Every person, other than a wholesale dealer, who sells or delivers within the city or its police jurisdiction, any tobacco products, and all persons operating under a retail dealer's license.

Sales: Any transfer of title or possession, or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for consideration or any agreement therefor, including rewards, prizes or premiums of such tobacco products given as a result of operations of punchboards, shooting galleries and other activities.

***Editor's note**—Section 1 of Ord. No. 96-O-9, adopted Mar. 26, 1996, amended this article to read as herein set out. Formerly, Art. IV consisted of §§ 14.35—14.41, which pertained to tobacco and derived from §§ 38, 39, 41—43 and 45 of Ord. No. 2056; § 1 of Ord. No. 74-O-51; § 1 of Ord. No. 84-O-38, adopted Nov. 20, 1984; and § 1 of Ord. No. 95-O-08, adopted Feb. 28, 1995.

Selling price: The usual selling price of the article before adding the amount of the tax assessed herein, or the tobacco tax assessed by the state.

Tobacco products: Cigarettes, cigars, chewing tobacco, smoking tobacco and other products containing tobacco.

Wholesale dealer and jobbers: A person who sells and delivers within the city or its police jurisdiction, at wholesale only, any tobacco products to licensed retail dealers for the purpose of resale only.

(Ord. No. 96-O-09, § 1, 3-26-96; Ord. No. 96-O-15, § 1, 5-28-96)

Sec. 14.36. Application of article.

This article shall not be applied so as to impose any unlawful tax or unlawful burden on interstate commerce or any business of the United States government or any branch or agency thereof.

(Ord. No. 96-O-09, § 1, 3-26-96; Ord. No. 96-O-15, § 1, 5-28-96)

Sec. 14.37. Levy and amount within city.

(a) In addition to all other taxes now imposed by law, every person who sells or delivers any tobacco products shall pay a license tax to the city, and a license tax is hereby fixed and levied, which license tax shall be in the following amounts for the sale and delivery of the following named tobacco products in the city:

- (1) *Cigarettes:* All cigarettes made of tobacco or any substitute therefor, eight cents (\$0.08) for each twenty (20) cigarettes or fraction thereof.
- (2) *Cigars:* Upon cigars of all description made of tobacco or any substitute therefor, eight (8) percent of the selling price.
- (3) *All other forms of tobacco:* Upon all smokeless tobacco described as snuff or by any other description, upon all smoking tobacco including granulated, plug cut, crimp cut, ready rubbed and other kinds and forms of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette, upon all chewing tobacco prepared in such manner as to be suitable for chewing only, and upon any other tobacco products not specifically mentioned above, eight (8) percent of the selling price.

(b) Whenever in this chapter reference is made to the price of any manufactured or imported tobacco product, as the basis for computing the tax, it is intended to mean the actual selling price of the product taxable under this article.

(c) When the selling price is referred to in this chapter as the basis for computing the amount of tobacco tax required on any article, it is intended to mean the selling price of the articles before adding the amount of the tax.

(d) The tax herein levied shall be paid by the wholesale dealer. Such dealer shall pay to the city the appropriate tax as defined in section 14.27 of the article on or before the twentieth day of the month for the sales of tobacco products made during the next preceding calendar month. The wholesale dealer shall report such tax on forms prescribed by the city revenue department.

(Ord. No. 96-O-09, § 1, 3-26-96; Ord. No. 96-O-15, § 1, 5-28-96; Ord. No. 96-O-46, § 1, 12-2-96)

Sec. 14.38. Application in the police jurisdiction.

Tax on tobacco products offered for retail sale outside the city limits but within the police jurisdiction of the city shall be one-half ($\frac{1}{2}$) the amounts defined in section 14.37.

(Ord. No. 96-O-09, § 1, 3-26-96; Ord. No. 96-O-15, § 1, 5-28-96)

Sec. 14.39. Penalty and interest for delinquent tax remittances.

The monthly tax levied by this article shall be due on the twentieth day of the calendar month next succeeding the calendar month in which the tax accrues and shall be delinquent if not paid by such day. The penalty and interest for delinquent remittances are those penalties and interest set forth in section 14.8 of this Code. In addition to the taxes, penalties and interest levied by this article, the revenue director may impose as an administrative fee the sum of ten dollars (\$10.00) for any final notices personally delivered or mailed by certified mail to any person, firm or other entity obligated to pay the taxes levied herein.

(Ord. No. 96-O-09, § 1, 3-26-96; Ord. No. 96-O-15, § 1, 5-28-96)

Sec. 14.40. Discounts.

Every person subject to this article shall be entitled to a discount in an amount equal to two (2) percent of all taxes paid to the city under the provisions of this article, provided the returns are made and the taxes paid before the same become delinquent hereunder.

(Ord. No. 96-O-09, § 1, 3-26-96; Ord. No. 96-O-15, § 1, 5-28-96)